

II. REMARKS

Claims 1 to 25 are pending in the subject application. By this Amendment and Reply, claims 1 to 16, 18 and 22 to 25 have been canceled. Claims 17, 19 and 20 have been amended herein. New claims 26 to 35 have been added.

The cancellation of claims 1 to 16, 18 and 22 to 25 and the amendment to claims 17, 19 and 20 are made without prejudice or disclaimer to Applicant's right to pursue the same or similar claims in a continuation application. Additionally, the cancellation of these claims and the amendment of other claims is not intended by Applicant as a dedication to the public of the subject matter of the claims as previously presented.

Claim 17 has been amended to depend on independent claim 26, rather than canceled claim 1.

Support for amended claim 19 is found on page 20, lines 3 and 4.

Support for the amendments to claims 20 and 21 and the addition of new claims 34 and 35 is found on page 16, lines 12 to 22 and page 57, lines 5 to 17.

Support for newly added claims 26 to 28 and 33 (to the extent it depends on claim 26) is found throughout the specification and in particular, in Table 4 appearing on page 73 and Figure 13.

Support for newly added claims 29 to 32 and 33 (to the extent it depends on claim 29) is found throughout the specification and in particular, on page 16, lines 12 to 22 and on page 57, lines 5 to 17.

Figure 6 and the abstract have been amended as requested by the Office. Support for the amendment to Figure 6 is found in the application papers on page 3, lines 26 to 30. Support for the new abstract is found on page 8, lines 7 to 30 and on pages 26 through 34.

The heading appearing on page 43, line 24 of the specification has been amended to correct a typographical error. Support for the amendment is found in line 2 of page 44.

The above noted amendments and the addition of new claims do not raise an issue of new matter and entry thereof is respectfully requested.

In view of the preceding amendments and the following remarks, reconsideration and withdrawal of the objections and rejections are respectfully requested.

Amended claims 17 and 19 to 21 and new claims 26 to 35 are presently under examination.

Objections to the Specification

The Office object to the abstract on the ground it did not meet the requirements of the MPEP for US applications. A new abstract has been submitted in a sincere effort to remove the grounds for objection.

Figure 6 was objected to for alleged errors in the structure. Applicant submits herewith a substitute figure. In light of this submission, reconsideration and withdrawal of the objection is respectfully requested.

The Office also noted that a Sequence Listing is required to conform to US patent rules. A copy of the Notice to Comply is enclosed with this Reply. Also enclosed with this reply is a Sequence Listing to be inserted into the application papers and a copy of the Sequence Listing on a computer readable diskette. Applicant's undersigned attorney declares that the sequence provided on the computer readable diskette is identical to the paper copy enclosed herewith. In view of the enclosed paper copy and computer readable diskette, removal of the objection is respectfully requested.

The Office also noted that the specification fails to refer to the international application to which this application claims the benefit. The specification has been amended to cross-reference the international application. Removal of this ground for objection is respectfully requested.

The Office also noted a typographical error appearing on page 43, line 24 of the specification. The error has been corrected by amendment. Removal of this ground for objection is respectfully requested.

Claim Objections

Claims 2, 3 and 19 were objected to for alleged informalities. Claims 2 and 3 have been cancelled without prejudice or disclaimer in this Reply. Claim 19 was objected to for a typographical error and for being improperly dependent on a multiple dependent claim. These errors have been corrected by amendment in this Reply. In view of the amendment to claim 19 and cancellation of claims 2 and 3, removal of the grounds for objection are respectfully requested.

35 U.S.C. § 112, First Paragraph

Claims 20 to 25 were rejected under 35 U.S.C. § 112, first paragraph on the ground that the specification does not support the claim as written. Without conceding the correctness of the Office's position and in a sincere effort to advance examination and allowance of the claims, claims 20 and 21 have been amended and claims 22 to 25 have been canceled without prejudice or disclaimer. New claims 34 and 35 which depend on claim 20 also have been added.

Claims 1 to 18 also were rejected under 35 U.S.C. § 112, first paragraph on multiple grounds that the specification does not support the claims as written. Without conceding the correctness of the Office's position and in a sincere effort to advance examination and allowance of the claims, claims 1 to 16 and 18 have been canceled

without prejudice or disclaimer and claim 17 now depends on independent claim 26. The cancellation of claims 1 to 16 and 18 and the amendment of claim 17 to depend on new independent claim 26 remove the stated grounds for rejection. Accordingly, reconsideration and withdrawal of the grounds for rejection under 35 U.S.C. § 112, first paragraph is respectfully requested.

35 U.S.C. § 112, Second Paragraph

Claims 1-3, 6, 12-14, 17, 18 and 20-25 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Claims 1 to 16 and 18 have been canceled by this Reply so the grounds for rejection under 35 U.S.C. § 112, second paragraph are not repeated.

Claim 17 was rejected on the ground that a compound that "diminishes intracellular thymidine or purine" was not specifically recited in the claim. Claim 17 has been amended to recite three exemplary compounds.

Claim 20 was rejected and the Office suggested combination of claims 20, 21 and 25. Claims 20 and 21 have been amended as suggested by the Office. Claims 22 to 25 have been canceled.

In view of the preceding amendments, reconsideration and withdrawal of the grounds for rejection under 35 U.S.C. § 112, second paragraph is respectfully requested.

Double-Patenting Rejections

The claims were rejected under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over several co-owned pending patent applications and issued U.S. Patents. Without conceding the correctness of the

Office's position, Applicant respectfully defers responding to these rejections until allowable subject matter has been indicated by the Office in the subject application.

Duty of Disclosure

In accordance with the duty of disclosure, Applicant advises the Office of the following co-pending patent applications.

Application Serial No.	Filing Date
09/789,226	2/20/2001
11/034,036	1/12/2005
09/782,721	2/12/2001
10/051,320	1/18/2002
10/119,927	4/9/2002
10/681,418	7/21/2000
10/954,797	9/29/2004

The following U.S. patents are also brought to the Office's attention: 6,495,553; 6,339,151; 6,245,750; and 6,683,061.

III. CONCLUSION

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.


The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any

overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

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Proposed Mechanism of NB1011 Activation

